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August 21, 1997

**BY HAND DELIVERY**

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, DC 20554

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**Re: Further Comments of Motorola Satellite Communications Inc.  
and Iridium LLC, IB Docket No. 96-111**

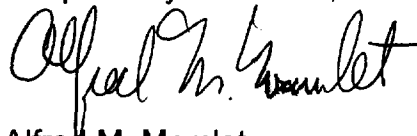
Dear Mr. Caton:

On behalf of Motorola Satellite Communications, Inc. ("Motorola") and Iridium LLC ("Iridium") enclosed please find for filing an original and five copies of Motorola's and Iridium's Further Comments in the above-mentioned matter.

Also enclosed is an additional copy which we ask you to date stamp and return with our messenger.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Alfred M. Mamlet  
Counsel for Motorola Satellite  
Communications, Inc. and Iridium

Enclosures

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AUG 21 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of:

Amendment of the Commission's  
Regulatory Policies to Allow Non-U.S.-  
Licensed Space Stations to Provide  
Domestic and International Satellite  
Service in the United States

IB Docket No. 96-111

Directed To: The Commission

**FURTHER COMMENTS OF  
MOTOROLA SATELLITE COMMUNICATIONS, INC.  
AND IRIDIUM LLC**

Motorola Satellite Communications, Inc. ("Motorola") and Iridium LLC ("Iridium") respectfully submit these further comments pursuant to the Commission's Further Notice of Proposed Rulemaking (the "Further Notice") in this proceeding. Motorola and Iridium support and welcome regulatory policies that promote and ensure open market access worldwide for global mobile personal communications services ("GMPCS"). For this reason, Motorola and Iridium support the Commission's proposals in the Further Notice, which would implement the significant market-opening commitments of the WTO Basic Telecom Agreement.

**I. THE WTO BASIC TELECOM AGREEMENT REQUIRES  
OPENING OF THE U.S. MARKET TO SATELLITE SYSTEMS  
FROM WTO COUNTRIES**

In comments and reply comments in this proceeding,<sup>1/</sup> Motorola and Iridium supported opening the GMPCS market through an agreement in the World Trade Organization ("WTO") Group on Basic Telecommunications ("GBT").<sup>2/</sup> On February 15, 1997, 69 countries participated in such an agreement -- the WTO Basic Telecom Agreement -- that will enter into force on January 1, 1998.<sup>3/</sup> In its Further Notice, the Commission recognizes that "[t]he WTO Basic Telecom Agreement will have an unprecedented impact worldwide in opening basic telecommunications markets to competition."<sup>4/</sup>

In fact, the Agreement is already having a significant impact on market access for GMPCS. In the months since the conclusion of the WTO Basic Telecom Agreement, Motorola and Iridium have continued to be impressed by the spirit of international cooperation and commitment to the development of GMPCS. Iridium has made significant progress in obtaining licenses to provide services in a number of

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<sup>1/</sup> Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Satellite Systems to Provide Domestic and International Satellite Service in the United States, IB Docket No. 96-111, FCC 96-210 (May 14, 1996) (Notice of Proposed Rulemaking) ("DISCO-II NPRM").

<sup>2/</sup> Comments of Motorola Satellite Communications, Inc. and Iridium, Inc., at 13-14 (July 15, 1996) ("Motorola/Iridium Comments"); Reply Comments of Motorola Satellite Communications, Inc. and Iridium LLC, at 2-5 (August 16, 1996) ("Motorola/Iridium Reply Comments").

<sup>3/</sup> See Report of the Group on Basic Telecommunications, WTO Doc. S/GBT/4 (Feb. 15, 1997).

<sup>4/</sup> Further Notice at ¶ 13. Although not all WTO countries joined the WTO Basic Telecom Agreement and not all participants in the agreement unconditionally agreed to open their markets to GMPCS, the Commission's prediction will become reality if the participants in the WTO Basic Telecom Agreement implement the commitments they have made under the agreement.

countries. This progress has been particularly evident in the countries that have made strong market-opening commitments as part of the WTO Basic Telecom Agreement. Iridium is hopeful that continuing progress will allow it to obtain the licenses that it will need by September 1998, when it plans to begin providing commercial service.

This spirit of cooperation and commitment has also been evident in the activities launched by the first World Telecommunication Policy Forum ("WTPF"), which was attended by delegations from 120 countries. For example, over the last seven months, Administrations from around the world have worked together with the GMPCS industry to adopt a Memorandum of Understanding to Facilitate Arrangements for Global Mobile Personal Communications by Satellite, Including Regional Systems ("GMPCS MOU"), and to adopt the Arrangements to implement the GMPCS MOU. Through the GMPCS MOU and Arrangements, Administrations are adopting policies to facilitate transborder roaming, and to mutually recognize licenses, marking, and type approval of terminals. In addition, the International Telecommunications Union ("ITU") has, together with the GMPCS industry, planned and launched a series of regional workshops for developing countries to facilitate the licensing and introduction of GMPCS. It is encouraging to Motorola and Iridium that these workshops have been well received and widely attended by Administrations.

In fact, the global regulatory environment for GMPCS today is significantly better than the one that existed as recently as one year ago -- at the time initial comments were filed on the DISCO-II NPRM. Although much more needs to happen for the promise of global market access for GMPCS to be realized, Motorola and Iridium are hopeful that conditions of competition and market access will continue to evolve and will soon result in a variety of choices for on-demand global mobile communications around the world for consumers.

In view of the WTO Basic Telecom Agreement and other encouraging developments that offer the possibility of open market access for GMPCS in WTO

countries, Motorola and Iridium agree with the Commission that application of the ECO-Sat test is no longer appropriate with respect to satellite systems of WTO countries. Motorola and Iridium therefore support the Commission's proposal to act on applications from satellite service providers from WTO countries as set forth in the Further Notice.<sup>5/</sup> This policy of open access to the U.S. market should provide a level playing field in the United States for all satellite systems from WTO countries as long as U.S.-licensed systems have similar access abroad. Motorola and Iridium are confident that the WTO Telecom Agreement will provide such access in a significant number of foreign countries.

An important aspect of the Commission's proposal to ensure a level playing field for GMPCS systems is the proposed application to foreign systems of the prohibition on "exclusive arrangements" that the Commission presently applies to U.S.-licensed Big LEO MSS systems and has proposed to apply to all non-U.S.-licensed satellite systems that serve the United States.<sup>6/</sup> This license condition prohibits a U.S. licensee from:

acquir[ing] or enjoy[ing] any right, for the purpose of handling traffic to or from the United States . . . to construct or operate space segment or earth stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons or companies controlling or controlled by the Licensee are parties.<sup>7/</sup>

In response to the initial DISCO-II NPRM, ICO Global strongly supported application of such a condition by regulators around the world, as a primary means of ensuring

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<sup>5/</sup> Further Notice at ¶ 13.

<sup>6/</sup> Id. at ¶¶ 41-42.

<sup>7/</sup> 47 C.F.R. § 25.143(h). The authorization of any provider offering service over a non-U.S. licensed system should be conditioned on the satellite system operator not accepting an exclusive arrangement.

non-discriminatory market access for GMPCS operators.<sup>8/</sup> In light of the successful conclusion of the WTO Basic Telecom Agreement, Motorola and Iridium agree with ICO Global that the Commission should base its licensing policies on the multilateral principles inherent in the "no exclusive arrangements" approach.

Motorola and Iridium also agree that the Commission should apply the ECO-Sat test to services provided by satellites of non-WTO countries.<sup>9/</sup> This test will promote competition in the U.S. market, and will encourage such non-WTO countries to open their markets to systems licensed in the U.S. and other WTO countries. In addition, such systems should be required to comply with the Commission's rules, including the "no exclusive arrangements" rule.

However, the ECO-Sat test should not apply to service between the United States and non-WTO countries by satellite systems of WTO countries.<sup>10/</sup> As the Commission notes, the national treatment obligations assumed by the United States under the WTO Basic Telecom Agreement require that licensing standards for such services apply equally to U.S. satellite systems.<sup>11/</sup> Therefore, imposition of a higher licensing standard on routes to non-WTO countries would place new burdens on U.S.-licensed systems.<sup>12/</sup>

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<sup>8/</sup> See Comments of ICO Global Communications at 37-42 (July 15, 1996).

<sup>9/</sup> See Further Notice at ¶¶ 23-24.

<sup>10/</sup> See Further Notice at ¶¶ 25-28 (requesting comment on entry standard for services to non-WTO countries by satellite systems of WTO countries).

<sup>11/</sup> Id. at ¶ 26.

<sup>12/</sup> Such a policy would also increase the Commission's workload by requiring route-by-route licensing decisions for satellite systems of WTO countries. Instead of imposing such burdens, the Commission should rely on the "no exclusive arrangements" condition to ensure that no satellite system of a WTO country that provides service in the United States can gain an unfair advantage in any foreign market.

For intergovernmental satellite organizations, Motorola and Iridium support the Commission's third option -- evaluating service over an IGO satellite on the basis of whether that IGO service would diminish effective competition in the United States. Normally, additional competitors will increase competition. Motorola and Iridium expect that Inmarsat member countries will open their markets to the Iridium® System. However, a competitive safeguard is needed in the event an IGO or its members use their intergovernmental status or attributes to harm competition. Accordingly, entry to the U.S. market should be denied where IGO service would diminish effective competition in the U.S.

In sum, Motorola and Iridium are in full agreement with the market-opening proposals of the Further Notice. Certain market access risks remain under the WTO Basic Telecom Agreement because (1) the agreement does not include market opening commitments from many WTO countries; (2) the commitments for most countries have not yet been implemented; and (3) the commitments for some countries will not be effective for several more years. Of course, the Commission's public interest mandate will permit it to address any situation where entry "would pose a very high risk to competition in the United States satellite market. . . ." <sup>13/</sup> Nevertheless, Motorola and Iridium strongly believe that the Commission can best promote global market access for GMPCS providers by following the multilateral course toward open markets embodied in the WTO Basic Telecom Agreement.

## **II. THE COMMISSION SHOULD APPLY NON-DISCRIMINATORY RULES TO ALL SATELLITE SERVICE PROVIDERS**

Motorola and Iridium also support the Commission's proposals in the Further Notice to apply non-discriminatory procedural rules to all satellite systems

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<sup>13/</sup> Id. at ¶ 18.

seeking to serve the United States. **First**, foreign satellite systems should be subject to the same technical and service rules -- in Parts 25 and 100 of the Commission's Rules -- that are applicable to all U.S.-licensed systems.<sup>14/</sup> To the extent a non-U.S.-licensed service provider believes that U.S. technical or service rules are excessively burdensome, that provider may seek appropriate waivers from the Commission under the public interest standard.<sup>15/</sup>

**Second**, Motorola and Iridium support the Commission's proposal to permit foreign-licensed satellite systems to participate in U.S. processing rounds either through filing of an earth station application or a "letter of intent."<sup>16/</sup> In those processing rounds, foreign-licensed systems should be subject to the same spectrum availability and technical coordination requirements as U.S. systems,<sup>17/</sup> and should be required to supply the same technical, legal and financial information as U.S. systems.<sup>18/</sup> To any extent the latter requirement may impose an excessive burden on a non-U.S.-licensed system, the service provider may seek appropriate waivers from the Commission.

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<sup>14/</sup> See id. at ¶¶ 39-44.

<sup>15/</sup> See Motorola/Iridium Reply Comments at 25-26.

<sup>16/</sup> Further Notice at ¶¶ 47-60. Motorola and Iridium also support the Commission's proposal to provide foreign satellite systems with the alternative of seeking earth station licenses outside of a processing round, id. at ¶ 55, subject to "the risk that spectrum or orbital resources will not be available to access the U.S. territory," id. at ¶ 54.

<sup>17/</sup> Id. at ¶ 38.

<sup>18/</sup> Id. at ¶ 60.



### III. CONCLUSION

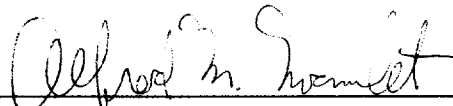
Motorola and Iridium encourage the Commission to continue to adopt and promote regulatory policies that foster competition and open market access. For the reasons set out above, Motorola and Iridium fully support the Commission's proposals in the Further Notice, particularly as applied to the GMPCS market.

Respectfully submitted,

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August 21, 1997

## **CERTIFICATE OF SERVICE**

I, Alfred M. Mamlet, hereby certify that the foregoing Further Comments of Motorola Satellite Communications, Inc. and Iridium LLC were served, via first class mail, postage prepaid, this 21st day of August, 1997, on the following persons:

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A handwritten signature in black ink, appearing to read "Alfred M. Mamlet", is positioned above a horizontal line.

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